

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. A-6605

PETITION OF STONE RIDGE SCHOOL OF THE SACRED HEART

OPINION OF THE BOARD

(Hearing Held: March 20, 2019)

(Effective Date of Opinion: March 28, 2019)

Case No. A-6605 is an application for a height variance under Section 59-7.3.2 of the Montgomery County Zoning Ordinance. Per the Building Permit Denial in the record at Exhibit 6, the proposed construction of a new building (the "Project") with a peak roof height of 55.07 feet and a mean (average) roof height of 42.42 feet requires a variance of 20.07 feet from the thirty-five (35) foot peak height limit, or a variance of 12.42 feet from the thirty (30) foot mean height limit, in accordance with Section 59.4.4.9.B.3 of the Zoning Ordinance. The Statement submitted with this variance application indicates that the Project was refined following the issuance of the Building Permit Denial, such that the actual variance needed is either 16 feet, 7 inches (16.58 feet) from the peak roof height, or 12 feet, 9 inches (12.75 feet) from the mean roof height.

The Board of Appeals held a hearing on the application on Wednesday, March 20, 2019. Patrick O'Neil, Esquire, appeared on behalf of Petitioner Stone Ridge School of the Sacred Heart ("Stone Ridge" or the "School"). He called Catherine Ronan Karrels, Head of School, and Peter Blum, AIA, as witnesses.

The subject property is Parcel N410 Pt Par A, PI 4179 Pt Par A Wisc Ave & Cedar Lane Subdivision, located at 9101 Rockville Pike, Bethesda, MD, 20814, in the R-60 and TDR-8.0 Zones.

Decision of the Board: Variance **GRANTED**.

EVIDENCE PRESENTED

1. The subject property is a 34.1 acre tract of land located on the southeast corner of the intersection of Rockville Pike and Cedar Lane, in Bethesda, Maryland. The property is encumbered with significant slopes, and a forest conservation easement covers 14.8% of the property. See Exhibit 3.
2. The property's topography is variously described as follows in the Statement of Justification ("Statement") submitted with this variance application:

The high point of the Property is at elevation 296 feet in the vicinity of Hamilton House, which is located in the southwestern portion of the campus. From Hamilton House, the Property slopes decrease approximately 15% to the west toward Rockville Pike. The slopes also significantly decrease to over 25% northeastward toward Cedar Lane. From the athletic complex and aquatic center, the Property slopes upward to the east and downward to the north from between 25% to less than 15% inclines. The Project is situated in a lower point of the Property as it slopes toward Cedar Lane. The attached campus photographs illustrate the sloping nature of the campus as viewed from Rockville Pike and along Cedar Lane (Exhibit D).

* * * * *

As discussed above, the grade of the Property changes significantly from south to north, falling by approximately 72 feet from its highest elevation along the NSA Bethesda property line (302 +/- feet) to the Gator Field's intersection with Cedar Lane (230 +/- feet). The Property also slopes from east to west. By way of illustration, the high point of the eastern Property Line is approximately 302 +/- feet and approximately 248 +/- feet in the vicinity of the structure. The Project is sited at the low point of the intersecting slopes to mitigate the visual impacts of the building's height and, in particular, to shield the building from the sight lines of residential neighbors.

See Exhibit 3. The Statement further states that "[t]he exceptional topography was also a key determinant in the Board of Appeals' granting of the prior height variance at the School (Exhibit E)," and explains that how height was calculated for the purposes of granting that variance. The Site Plan attached to the Statement shows the contour lines for the property, and makes plain the significance of the slopes on this property. See Exhibit 3(g).

3. The subject property "has approximately 646.5 feet of frontage on Rockville Pike and 1,675 feet of frontage on Cedar Lane." It is bordered on the east by the Parkview community, on the south by the Walter Reed Medical Center/NSA Bethesda, across

Rockville Pike to the west by the National Institutes of Health, and to the north by the Locust Hill community, which is separated from the School by Rock Creek Park and Cedar Lane. An athletic field and multi-purpose field “serve to buffer school activities from Cedar Lane to the north and the Parkview community to the east,” and “[p]arking areas and structures are strategically located away from residential communities and out of the viewshed of the School’s iconic original structure, Hamilton House.” See Exhibit 3.

4. The Statement describes the history of the School in this location, noting that after outgrowing its Washington, DC, location, the School “purchased 35 acres of ‘Stone Ridge,’ the George Hamilton estate in Bethesda, Maryland,” moving there in 1947.¹ The Statement asserts that the following “extraordinary conditions” pertain to this property:

The School has been at the Property for over 70 years. The historic entrance to the campus is Hamilton House, which is located in the southwest quadrant of the Property, facing Rockville Pike. As the School has grown, all new campus structures were constructed in a way to respect the alignment, views and massing of Hamilton House. As such, the Project could only be located behind Hamilton House.

The purpose of the Project is to provide central space for dining and programming that benefits all of the students, in addition to enhancing existing athletic uses. The Project is located on the only available space on the Property to effectively serve these functions. The building is sited across from the existing Upper School, whose students will be the primary users of the building, and in close proximity to the Middle and Lower Schools. Each of the School’s athletic facilities are directly connected to the Project. The Project is also centrally located in the vicinity of existing parking and directly accessible for delivery trucks that will enter the campus from Cedar Lane. The Project’s size is dictated by the required dimensions of the theater space.

By locating the building in a lower point of the campus, the Project is not visible to the majority of single family homes that are otherwise buffered from the building by significant Property setbacks (see Exhibit J). The height of the Project is consistent with that of the upper school building.²

¹ In Board of Appeals’ variance Case No. A-4247 (height variance), granted on March 3, 1995, the Board stated under “Findings of the Board” that “Hamilton House has been in its present location for 87 years. The subject property has exceptional topographic conditions, both at the front and rear of the property. Due to these topographic conditions, the proposed addition will be constructed at a lower level than Hamilton House, therefore placing Hamilton House out of compliance with the 35-foot height requirement.” See Exhibit 3(e).

² The Statement notes that “the Project’s highest roof point would be 24 feet lower than the high point of the confronting Upper School if the requested variance is granted.” See Exhibit 3. The relative heights of

The Petitioner attached a Sight Line Analysis to the Statement to support this. See Exhibit 3(j). Updated sight line sections were presented at the hearing which showed the same thing. See Exhibit 13.

5. The Statement states that the School is the subject of specific recommendations in the 1990 Approved and Adopted Bethesda-Chevy Chase Master Plan, as follows:

The specific recommendations for Stone Ridge School presume that the Property will continue as a school use. As such, the Master Plan calls for consideration to be given to trees and slopes with provision of green space to be integral to any development plan. This helps protect the environmental character of the site and maintain the desired campus-like environment. (See Master Plan, pages 34-35.)

The proposed Project serves to enhance the campus environment by providing, for the first time, a central gathering place for students and school-wide performances. The current campus consists of a variety of ad hoc buildings within a sprawling campus environment. There are very limited indoor spaces for students to congregate and/or perform. The proposed Student Life Center solves this omission by providing a much needed focal point for campus activities. It is centrally located among classrooms, athletic fields, a gymnasium and a natatorium. The proposed construction respects the environmental features of the Property by efficiently combining multiple uses into one building, thereby preserving the surrounding green area of the campus.

6. Regarding the impact of the proposed construction on abutting and confronting properties, the Statement asserts that:

The proposed Student Life Center will not adversely affect the use and enjoyment of abutting or confronting properties. To the contrary, the location of the building fully protects the use and enjoyment of neighboring properties by ensuring that no noise or activity associated with the Student Life Center will be seen or heard by the neighbors, avoiding the potential adverse impacts that would result if the building were constructed closer to the property lines.

The Statement notes that the School has been in communication with the neighboring citizens' associations and NSA Bethesda about the project, and that to date, no questions or concerns have been shared with the School. See Exhibits 3 and 3(h).

7. In asserting that the School did not cause the special circumstances or conditions pertaining to this property, the Statement states that:

these two buildings can be seen on the Sight Line Analysis. See Exhibits 3(j) and 13 (East-West site sections).

The applicable grades and 71-year evolution of the Property are natural circumstances that have combined to dictate where and how the Project is located. The existing slopes and locations of campus structures, which will benefit from the Project, direct that the Project be built in a centrally located low point of the Property. This also ensures that the Project is effectively shielded from neighboring residential properties by extraordinary visual and land buffers.

Thus, the unique circumstances and conditions on the Property which justify variance relief arise directly from the original contours of the Property, the manner in which the campus was directed to grow in respect to Hamilton House, and the current and future need to protect the surrounding community from campus activities. None of these unique circumstances and conditions are the result of actions that have been taken by the Petitioners.

8. The Letter notes that the requesting variance is the minimum reasonably necessary to overcome the practical difficulties that full compliance with the Zoning Ordinance would cause due to the unusual or extraordinary conditions on the property, as follows:

The Petitioner has designed the Project to accommodate a standard sized, high school theater, which requires a height of 50 feet from the stage floor to underside of stage roof deck. The other Project features are designed to fit within the building height envelope established by the theater and minimize impacts to campus green and open spaces. This efficiency of uses is also directed by the applicable areawide master plan, discussed in Section IV.E below and throughout. Thus, the requested variance of 16'-7" is the minimum relief necessary to overcome the practical difficulties that arise from the placement of the proposed Student Life Center on the Property, and is also the minimum relief necessary to guarantee the protection of the general health, safety, and welfare of the public.

9. At the hearing, Ms. Catherine Ronan Karrels, Head of School, testified in support of the requested variance. Ms. Karrels testified that Stone Ridge is a Catholic school that educates students from kindergarten through 12th grade in its Lower, Middle, and Upper Schools, all of which are located on the subject property. Ms. Karrels provided some history of the School, namely that it was founded in 1923, at which time it was located on Massachusetts Avenue in Washington, D.C., and that in 1947 it moved into the Hamilton House, where it is still located. She testified that approximately 85 students graduate from Stone Ridge each year, and that the School is particularly proud of its service program.

Ms. Karrels oriented the Board to the property using the existing site plan in the record at Exhibit 9. She testified that the property is bounded on the north by Cedar Lane and on the west by Rockville Pike. She testified that the Locust Hill neighborhood is located to the north, across Cedar Lane, and that the Parkview neighborhood is

located to the east. She testified that there is an athletic field buffer on the east side of the campus that the School tries to maintain.

Ms. Karrels testified that the School is proposing to locate the proposed Project in an area of the campus that is currently occupied by a playground and stormwater retention pond. She testified that this location was logical in that it was at the core of the campus, and that it would make the campus safer by allowing the School to reroute traffic from the center of campus to a "loop" road. She testified that this change to the traffic pattern would also result in the creation of a quad area that would provide students with outdoor opportunities to eat, learn, relax and interact as a community. Using Exhibit 10, Ms. Karrels explained that the playground would be moved across the former "street," which would become the Campus Walk, and showed the Board where the new loop road would be located.

Ms. Karrels testified that the Upper School building was constructed in the 1990s, and is five (5) stories tall. She testified that the Project will be about three (3) stories tall, considerably lower than the Upper School Building.

Ms. Karrels testified that among other things, the Project would give the School a 420-seat theater, an industrial kitchen, and an "all-school" dining space. She testified that at present, food is cooked in a kitchen at the Hamilton House and then carted to the individual Lower, Middle, and Upper School dining rooms, noting that the new arrangement will allow for the preparation of healthier meals and will allow the School to eat as a community. She testified that at present, the School uses space referred to as the "Sophie Center" in the basement of the Hamilton House for the School's theater productions. She testified that this space is most similar to a black box theater, and that it has no backstage area or bathroom, adding that she has seen girls who exit one side of the stage have to run around the outside of the building to enter on the other side of the stage. Ms. Karrels testified that the School's current facilities limit the productions the School is able to undertake, and that the School is seeking to construct theater space commensurate with that found in other public and private schools. She noted that the arts are critical to the School's mission, and that this new building would be a "game changer."

Using the renderings at Exhibit 11(a), Ms. Karrels testified that the architectural style of the Project would "marry well" with the existing architecture, but would allow for more light and a more airy feel. She showed the Board the existing driveway, which would become the Campus Walk. Referring to the renderings at Exhibit 11(b), Ms. Karrels showed the Board where the playground would be relocated and how the proposed Project would create a quad feel on the campus. She testified that like the new dining hall, this outside space would serve the entire community, stressing that community is one of the pillars of a Sacred Heart education.

Regarding community outreach, Ms. Karrels testified that Eric Osberg, the School's Director of Finance and Operations, had reached out to and shared information with the neighborhood associations for the Locust Hill and Parkview communities, and that he invited interested neighbors to come to the School on March 5, 2019, to learn more about the Project. See Exhibits 3(h) and 12. She testified that the feedback from that meeting was positive.

10. Mr. Peter Thomas Blum, AIA, an architect with Hord Coplan Macht, testified that he is the principal designer of the Project. He testified that he has worked with many other schools, four of which have involved theater projects. Mr. Blum explained that there are two basic types of theaters, proscenium and black box. He testified that a proscenium theater has sloped, fixed seating, and can support productions with multiple sets of scenery. He stated that this type of theater is generally less flexible than a black box theater, which is more experimental and typically has seating in the round. He testified that Stone Ridge is seeking to build a proscenium theater.

Regarding the selection of the proposed location for the Project, Mr. Blum testified that he had examined many sites around the perimeter and in the center of the Stone Ridge campus. He testified that some were inappropriate because of their slope, others because of their proximity to neighboring properties. Mr. Blum testified that the site selected for the Project was chosen because of its central location and because it was a low point which would enable the School to squeeze in the vertical space necessary for the theater "fly." Mr. Blum educated the Board about the "fly," explaining that it is used to store multiple sets above the stage and facilitate their usage. He testified that the School was employing a "modified fly," which requires about 50 feet of height, and that this is the type of fly used by most high schools. He testified that a "full fly" would have required an additional 25 feet of height (75 feet total). Regarding the topography, Mr. Blum stated that the campus drops approximately 70 feet from Hamilton House to Cedar Lane, and about 50 feet from Hamilton House to Rockville Pike. Referring to the updated east-west sight line section at Exhibit 13, he testified that the eastern edge of the property has an elevation of 302 feet, that the elevation in front of the proposed Project is 248 feet, that the elevation in front of the Upper School building is 250 feet, and that the property then falls towards Rockville Pike. Regarding the north-south topography, he testified that the property falls from about 302 feet at the south side of the property to 248 feet in front of the proposed Project, and then to 230 feet along Cedar Lane. Mr. Blum testified that the intersection of these slopes is central to the campus, unused (in terms of buildings), and a low point on the property which would allow for the theater's "fly" to be screened as much as possible. Accordingly, he testified that this was the site selected for the Project. He testified that he has attempted to screen the fly with rooflines. Mr. Blum then testified that the height from the average grade to the top of the fly is 51 feet, seven (7) inches, and that the Project thus requires a variance of 16 feet, seven (7) inches. See Exhibits 14(a) and 14(b).

Mr. Blum testified that the architecture of the Project picks up on the language of Hamilton House, with red brick and cast stone accents. He testified that he took a large building and used residential elements to break down its massing and screen the fly. Mr. Blum testified that the highest point of the Upper School will be 24 feet above the level of the fly.³ Mr. Blum testified that the Upper School, which is five (5) stories tall, only needed a ten (10) foot variance because of the way that average elevation was measured in that case. He noted that that variance was granted on the basis of the property's topography. See Exhibit 3(e) (Case No. A-4247). Mr. Blum testified that the Project is only two (2) stories, but that because of the "fly," the building is effectively three and one-half stories.

In response to a Board question about the proximity of the Project to neighboring residential uses, Mr. Blum estimated that the distance between the Project and these uses would be several hundred feet. He then described the significant tree cover currently existing on campus, and testified that the School would be adding additional trees.

Mr. Blum testified that the requested variance meets all of the criteria set forth in Section 59-7.3.2.E.2 of the Zoning Ordinance. He testified that in his opinion, the property has extraordinary topography which limits the ability to site the Project, and that the property also has an unusual historical precedent in Hamilton House and the way in which the campus has evolved to reflect that viewshed. Mr. Blum testified that the School has tried to confine activity to the center of campus in order to insulate its neighbors from activity and noise, and that they wanted the Project to be central to the campus for the same reason. Mr. Blum testified that the topography and the historic, organic evolution of the property was not due to any actions by the School, and that the proposed 51 foot, seven (7) inch height of the Project is the minimum height needed to accommodate the proposed theater. Mr. Blum testified that the requested variance can be granted without substantial impairment to the applicable 1990 Bethesda Chevy Chase Master Plan, which specifically mentions this property, because the Master Plan anticipates continued use of the property as a school, places an emphasis on maintaining green space, and indicates that the property should maintain its campus-like feel. See Exhibit 15. Finally, he testified that in his opinion, the variance can be granted without adversely impacting the use and enjoyment of neighboring properties. He concluded that the application satisfies the criteria in Section 59-7.3.2.E.2 of the Zoning Ordinance, and the variance can be granted.

³ The top of the fly is the highest level of the Project's roof.

FINDINGS OF THE BOARD

Based on the binding testimony of Ms. Karrels and Mr. Blum, and on the evidence of record, the Board finds that the requested variance from the 35-foot peak height limitation can be granted.⁴ The variance complies with the applicable standards and requirements set forth in Section 59-7.3.2.E of the Montgomery County Zoning Ordinance, as follows:

1. *Section 59.7.3.2.E.2.a. one or more of the following unusual or extraordinary situations or conditions exist:*

Section 59.7.3.2.E.2.a.i exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;

Based on the evidence of record and the testimony of Mr. Blum, the Board finds that the subject property is encumbered with significant, multidirectional slopes which, as the Board previously found in its March 3, 1995, variance Opinion, constitute an unusual or extraordinary circumstance peculiar to the subject property. See Exhibits 3, 3(e), and 3(g). In addition, the Board notes that while not designated historic, it is clear that the Hamilton House is a long-standing and significant presence on this property, and that preservation of its viewshed has guided the evolution of this property and could be said to constitute an extraordinary condition peculiar to the property.

2. *Section 59.7.3.2.E.2.b the special circumstances or conditions are not the result of actions by the applicant;*

The Board finds that the Petitioner is not responsible for the multi-directional, sloping topography of this property, or for the original location of the Hamilton House, the placement of which has influenced subsequent development on the property. The Board further finds that the Petitioner is not responsible for the evolution of uses around the subject property which the Petitioner is seeking to shield from campus activity by locating the Project as proposed. Thus the Board finds that the special circumstances or conditional are not the result of actions by the Petitioner.

⁴ The Board notes here that it would also be inclined to grant the requested variance of 12.42 from the mean height limitation of 30 feet, for the same reasons that it finds it can grant the variance from the peak height limit, but that because only one of these variances is necessary for the proposed construction to proceed, and because the revisions to the drawings made after the building permit denial increased the variance needed from the mean height limitation from 12.42 feet to 12.75 feet, beyond the extent of the variance noticed, the Board will grant the peak height variance only. The Board further notes that if the mean height variance had been noticed at 12.75 feet, the Board would have granted that variance, for the reasons stated herein.

3. *Section 59.7.3.2.E.2.c the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;*

The Board finds, per the Statement, the Sight Line Analyses, and the testimony of Mr. Blum, that the height of the Project is lower than that of the existing Upper School building, and is the minimum needed to accommodate a standard high school theater. See Exhibits 3, 3(j), and 13. The Board further finds that the School has attempted to locate the Project in a lower and centralized area of the property where it will be screened from most neighboring properties and comport with the Master Plan, as described below. Thus the Board finds that the requested variance is the minimum reasonably necessary to overcome the practical difficulties that full compliance with the Zoning Ordinance would entail.

4. *Section 59.7.3.2.E.2.d the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan;*

In accordance with the Statement and the testimony of Mr. Blum, the requested height variance would allow construction that continues the use of this property as a school, and that is sited so that it takes into account the property's slopes and trees, and maintains the property's green space and the desired campus-like environment. See Exhibits 3 and 15. Accordingly, the Board finds that these variances can be granted without substantial impairment to the intent and integrity of the Bethesda-Chevy Chase Master Plan.

5. *Section 59.7.3.2.E.2.e granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.*

Per the Statement submitted with this variance application, the Board finds that the proposed construction is located on the property so that no noise or activity associated with the proposed Student Life Center building will be seen or heard by neighbors, and so that the new building will not be visible to the majority of the neighboring single family homes. Per the Statement and the testimony of Ms. Karrels, the Board notes that the School reached out to neighboring citizens' associations, and to NSA Bethesda, and has received no objections regarding this project. See Exhibits 3, 3(h), and 12. Thus the Board finds that granting the requested variance relief will not be adverse to the use and enjoyment of abutting or confronting properties.

Accordingly, the requested variance from the peak height limit of thirty-five (35) feet is **granted**, subject to the following conditions:

1. The Petitioner is bound by the testimony of its witnesses and by its exhibits of record; and

2. Construction must be consistent with Exhibits 4 and 5 (inclusive).

Therefore, based upon the foregoing, on a motion by Stanley B. Boyd, Vice Chair, seconded by Bruce Goldensohn, with John H. Pentecost, Chair, Katherine Freeman, and Jon W. Cook in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 28th day of March, 2019.



Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-7.3.2.G.1 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.